



UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 26

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Highland Park, NJ 08904

**COPY MAILED**

**JUN 30 2006**

**OFFICE OF PETITIONS**

In re Application of :  
Porto et al. :  
Application No. 09/837,951 : DECISION ON  
Filed: April 19, 2001 : PETITION  
Title: METHOD OF MANUFACTURING:  
PISTONS AND COMPONENTS :  
THEREOF, AND FORGING TOOLS :

This is a decision on the "RENEWED PETITION UNDER 37 CFR 1.181 to withdraw holding of abandonment based on failure to receive Office action" filed by facsimile on November 10, 2005 (and by mail on November 14, 2005).

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed June 9, 2004<sup>1</sup>. This Notice set a three month shortened statutory period for reply, with extensions of time obtainable under 37 CFR §1.136(a). No reply having been received and no extensions obtained, the above-identified application became abandoned effective September 10, 2004. A courtesy Notice of Abandonment was mailed on January 11, 2005.

In response, applicants filed the initial petition, asserting that the Office action was never received<sup>2</sup> and requesting that the holding of abandonment be withdrawn. By decision mailed October 31, 2005, the petition was dismissed for failure to

<sup>1</sup> Pursuant to the decision mailed June 1, 2004, a prior holding of abandonment was withdrawn and the Office action mailed April 4, 2003 was re-mailed on June 9, 2004.

<sup>2</sup> Petitioner states that even though a change of address was filed on June 9, 2004, the re-mailed Office action would still have been received by petitioner at the old address. In this instance, petitioner owns the property at the old address and continues to check mail there daily.

include a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

There is a strong presumption that correspondence is properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of the Office action, petitioner must submit evidence to overcome this presumption. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Having submitted a copy of the docket record showing where the Office action would have been entered had it been received, on renewed petition, it is now concluded that Petitioner has supported his claim of non-receipt with an adequate showing.

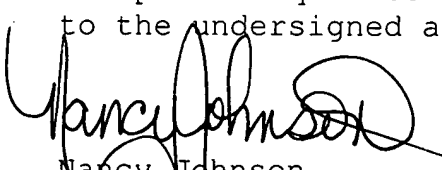
In view thereof, the notice of abandonment mailed January 11, 2005 is hereby VACATED, and the holding of abandonment is hereby WITHDRAWN.

The petition under § 1.181 is GRANTED.

No fee is required on petition under § 1.181.

Technology Center AU 3644 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the non-final Office action mailed June 9, 2004 and for restarting of the period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.



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